

# United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Milton I. Shadur	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	04 C 5674	DATE	11/2/2004
CASE TITLE	North Jackson vs. Caremark RX, Inc.		

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

## MOTION:

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## DOCKET ENTRY:

(1)	<input type="checkbox"/>	Filed motion of [ use listing in "Motion" box above.]
(2)	<input type="checkbox"/>	Brief in support of motion due _____.
(3)	<input type="checkbox"/>	Answer brief to motion due _____. Reply to answer brief due _____.
(4)	<input type="checkbox"/>	Ruling/Hearing on _____ set for _____ at _____.
(5)	<input type="checkbox"/>	Status hearing[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
(6)	<input type="checkbox"/>	Pretrial conference[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
(7)	<input type="checkbox"/>	Trial[set for/re-set for] on _____ at _____.
(8)	<input type="checkbox"/>	[Bench/Jury trial] [Hearing] held/continued to _____ at _____.
(9)	<input type="checkbox"/>	This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to] <input type="checkbox"/> FRCP4(m) <input type="checkbox"/> Local Rule 41.1 <input type="checkbox"/> FRCP41(a)(1) <input type="checkbox"/> FRCP41(a)(2).
(10)	<input checked="" type="checkbox"/>	[Other docket entry] Enter Memorandum Order. Defendant's Rule 12(b)(6) motion is denied (113-1), and defendants are ordered to answer the SAC on or before November 16, 2004. Finally, a status hearing is set for 9 a.m. November 19, 2004.
(11)	<input checked="" type="checkbox"/>	[For further detail see order attached to the original minute order.]

<input type="checkbox"/> No notices required, advised in open court. <input type="checkbox"/> No notices required. <input checked="" type="checkbox"/> Notices mailed by judge's staff. <input type="checkbox"/> Notified counsel by telephone. <input type="checkbox"/> Docketing to mail notices. <input type="checkbox"/> Mail AO 450 form. <input type="checkbox"/> Copy to judge/magistrate judge.	SN courtroom deputy's initials	NOV 3 2004 NOV 2 2004 Date/time received in central Clerk's Office	number of notices NOV 3 2004 date docketed docketing deputy initials 11/2/2004 date mailed notice SN mailing deputy initials	Document Number 118
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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

DOCKETED  
NOV 3 - 2004

NORTH JACKSON PHARMACY, INC.,	)	
et al., etc.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	No. 04 C 5674
	)	
CAREMARK RX, INC., et al.,	)	
	)	
Defendants.	)	

MEMORANDUM ORDER

This Court inherited this action via a 28 U.S.C. §1404(a) transfer from the United States District Court for the Northern District of Alabama, where it had been part of a three-case package of putative class actions charging violations of Section 1 of the Sherman Act by a small group of pharmacy benefit managers ("PBMs"). Promptly after the transfer the defendants in this action (two related companies, one of which is alleged to be a PBM involved in the claimed antitrust conspiracy) filed a Fed. R. Civ. P. ("Rule") 12(b)(6) motion to dismiss the Second Amended Complaint ("SAC") with prejudice. This Court just as promptly set a briefing schedule, and plaintiffs' counsel have now timely filed, in response to the Rule 12(b)(6) motion, the second of what had been contemplated as a three-memorandum set.

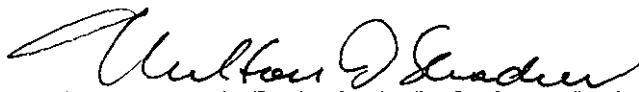
Each side is represented by able counsel who have submitted thoughtful memoranda advancing their respective points of view. But plaintiffs' just-filed responsive memorandum has been accompanied by a photocopy of the 25-page opinion issued on

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October 13, 2004 by the transferor judge, Honorable Virginia Emerson Hopkins, rejecting a like Rule 12(b)(6) motion that had sought to dispatch the selfsame Second Amended Complaint in the two cases that were retained in the Alabama District Court.

To repeat the meticulous analysis in Judge Hopkins' thorough opinion as a predicate for arriving at the same conclusion would be "[t]o gild refined gold, to paint the lily..." (William Shakespeare, King John act 4, sc. 2). And that, as the poet went on to say, would be "wasteful and ridiculous excess" (id.). There is no need for defendants' reply memorandum--instead the Rule 12(b)(6) motion is denied, and defendants are ordered to answer the SAC on or before November 16, 2004.

Finally, a status hearing is set for 9 a.m. November 19, 2004. At that time the parties' counsel should be prepared to discuss issues relating to class certification and any other matters necessary to move this action forward on a suitably expedited basis.



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Milton I. Shadur  
Senior United States District Judge

Date: November 2, 2004